

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re AMTRUST FINANCIAL SERVICES, INC. SECURITIES LITIGATION	: Civil Action No. 1:17-cv-01545-LAK
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	: <u>CLASS ACTION</u>
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This Document Relates To:	:
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ALL ACTIONS.	:
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[PROPOSED] JOINT RULE 26(f) REPORT AND DISCOVERY PLAN

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Lead Plaintiff North Atlantic States Carpenters Guaranteed Annuity and Pension Funds (“Lead Plaintiff”) and plaintiffs Sharon Albano, Jupiter Capital Management, Irving Lichtman Revocable Living Trust, and Stanley Newmark (collectively with Lead Plaintiff, “Plaintiffs”)¹, together with defendants AmTrust Financial Services, Inc. (“AmTrust” or the “Company”), the Individual Defendants² (together with AmTrust, the “AmTrust Defendants”), the Underwriter Defendants³ and BDO USA, LLP (“BDO”) (together with the AmTrust Defendants and the Underwriter Defendants (“Defendants”)), respectfully submit this [Proposed] Joint Rule 26(f) Report and Discovery Plan for the Court’s review and approval. The following chart sets forth the parties’ proposals for a

¹ Counsel recently learned that Mr. Newmark has passed away, and will be filing a Suggestion of Death.

² The “Individual Defendants” are Barry D. Zyskind, Ronald E. Pipoly, Jr., Donald T. DeCarlo, Susan C. Fisch, Abraham Gulkowitz, George Karfunkel, and Jay J. Miller. Counsel recently learned that Mr. Pipoly, Jr. has passed away, and are filing a Suggestion of Death.

³ The “Underwriter Defendants” are Citigroup Global Markets Inc., Keefe, Bruyette & Woods, Inc., Morgan Stanley & Co. LLC, RBC Capital Markets, LLC, and UBS Securities LLC.

pre-trial schedule (the “Schedule”), with additional detail for particular aspects of the Schedule provided below. The Rule 16 Conference for this case has not yet been scheduled by the Court.

EVENT	DEADLINE
Exchange of Initial Fed. R. Civ. P. 26 Disclosures	February 13, 2025
Initial Discovery Requests	February 27, 2025
Answers to Third Consolidated Amended Complaint	March 17, 2025
Fed. R. Civ. P. 16 Conference	To be set by the Court
Responses and Objections to Initial Discovery Requests	March 27, 2025
Parties to Substantially Complete Document Productions	August 29, 2025
Class Certification Motion (including expert reports, if any)	September 18, 2025
Parties to Complete Document Productions	October 30, 2025
Class Certification Opposition (including expert reports, if any)	November 18, 2025
Produce Privilege and Redaction Logs	November 21, 2025
Class Certification Reply	January 22, 2026
Class Certification Hearing	To be set by the Court
Service of all Interrogatories, Requests for Admissions and Requests for Production	March 18, 2026
Amend Pleadings and/or Join Additional Parties Without Leave of Court	March 25, 2026
Fact Discovery Cutoff	June 25, 2026
Identification of Experts	July 17, 2026
Serve Expert Reports	60 days after Fact Discovery Cutoff
Serve Rebuttal Expert Reports	60 days after Deadline to Serve Expert Reports
Expert Discovery Cutoff	30 days after Deadline to Serve Rebuttal Expert Reports
File Dispositive Motion(s)	60 days after Expert Discovery Cutoff
Opposition(s) to Dispositive Motion(s)	45 days after Deadline to File Dispositive Motion(s)
Reply in Support of Dispositive Motion(s)	30 days after Opposition(s) to Dispositive Motion(s)
Designate Potential Trial Witnesses and Proposed Exhibits	45 days before the Final Pretrial Conference
Joint Set of Jury Instructions	45 days before the Final Pretrial Conference

EVENT	DEADLINE
Final Pretrial Conference	To be set by the Court
Proposed Trial Date	To be set by the Court

I. THE SCOPE OF DISCOVERY

The parties anticipate discovery on a number of issues, including the claims pled in the Third Consolidated Amended Complaint (ECF No. 172) that were not dismissed, class certification, any damages or other remedies sought, and any claims or defenses pled in Defendants' answers. Plaintiffs also anticipate potential third-party discovery, including, but not limited to, potential discovery from current and/or former employees of: (i) AmTrust; (ii) each of the Underwriter Defendants; and (iii) BDO, as well as market analysts and/or government agencies. All parties reserve their rights to object to any requests for discovery. The parties further agree that discovery should not be conducted in phases.

II. THE SCHEDULE

A. Depositions

Plaintiffs' Position: Given the complexity of this action, the number of Defendants, and the likely number of third-party witnesses, Plaintiffs believe the default number of fact depositions imposed by the federal rules should be increased to a maximum of 40 per side (plus experts). The default set by the federal rules is designed and intended for typical, two-party actions, not complex securities class actions like this. In this case, there are 14 named Defendants, subject to varying causes of action, all with potentially unique defenses. There are also numerous government agencies and analysts, as well as current and/or former employees of AmTrust, BDO, and the Underwriter Defendants likely to have relevant information going to the heart of this action. Those categories alone could warrant 40 depositions.

Defendants' Position: Defendants believe that 40 fact depositions per side is excessive, particularly given the fact that the claims have been substantially narrowed by this Court and, in turn, the Second Circuit. Defendants propose a limit of 20 fact depositions per side.

B. Interrogatories

The parties agree that Rule 33 of the Federal Rules of Civil Procedure and Local Rule 33.3 shall govern the number and scope of interrogatories in this action. As permitted by the Federal Rules of Civil Procedure, additional interrogatories may be granted by further order of the Court or by stipulation.

C. Document Production

The parties agree that documents shall be produced on a rolling basis. The parties further agree that privilege logs shall be served no later than 30 days after the date of completion of document production.

D. End of Fact Discovery

The parties agree that all discovery requests, except contention interrogatories (which may be served after the conclusion of fact discovery), shall be served on any party or non-party at least 30 days before the end of fact discovery.

E. Expert Witness Disclosure and Discovery

As set forth in the Schedule, the parties agree that expert witness disclosure and discovery deadlines should be tied to the end of fact discovery.

F. Dispositive Motion Deadline

Dispositive motions and supporting materials will be filed no later than 60 days after the end of expert discovery.

III. ELECTRONICALLY STORED INFORMATION

The parties anticipate agreeing to an appropriate searchable format and production protocol in connection with discovery of electronically stored information (“ESI”).

IV. CONFIDENTIALITY STIPULATION AND [PROPOSED] PROTECTIVE ORDER

The parties believe that a stipulated protective order should be entered to govern the exchange of confidential information in this action. The parties agree to meet and confer to reach an agreement on the scope of a proposed stipulated protective order for submission to the Court.

V. SERVICE OF PAPERS

The parties agree to serve and receive case-related documents and correspondence, including discovery requests and responses and documents filed with the Court, via electronic mail; provided, however, that the parties may agree in writing to utilize an alternate form of service without further order of the Court.

VI. AMENDMENTS TO THIS DISCOVERY PLAN

The parties may jointly agree to modify the deadlines set forth herein by written agreement unless the modification alters a filing deadline with the Court, in which case Court approval is required.

DATED: January 27, 2025

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IT IS SO ORDERED.

DATED: _____

THE HONORABLE LEWIS A KAPLAN
UNITED STATES DISTRICT JUDGE